



UNITED STATES PATENT AND TRADEMARK OFFICE

hC
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,588	12/17/2001	Carl Kah JR.	P/3426-21	5952
2352	7590	01/20/2004	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			HWU, DAVIS D	

ART UNIT	PAPER NUMBER
3752	

DATE MAILED: 01/20/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/015,588	Applicant(s) KAH ET AL. <i>h/w</i>
	Examiner Davis Hwu	Art Unit 3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 January 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 8-13,34-36,40-42,47-49,53-55,60 and 61 is/are pending in the application.
4a) Of the above claim(s) 61 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 8-10,13,34-36,40-42,47-49,53-55 and 60 is/are rejected.

7) Claim(s) 11 and 12 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

Response to Amendment

1. The amendment and remarks of January 8, 2004 are acknowledged and entered as paper number 8.
2. All of the appropriate 35 USC paragraphs can be found in the office action of December 29, 2003.

Claim Rejections - 35 USC § 103

3. Claims 8, 9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walrath et al. ('293) in view of Tyler.

The patent to Walrath et al. ('293) discloses a valve assembly for receiving a supply of water and directing water therefrom, comprising:

- a housing 2 having a flow path 22 formed therein for directing a flow of water received in the assembly and a water stream outlet 30 through which water exits the assembly; and
- a sleeve valve 18 disposed in the nozzle housing and around the flow path for throttling or shutting off flow to the outlet 30, the sleeve valve having an opening and configured to intersect the flow path upstream of the nozzle;
- wherein the sleeve valve is rotatable at least between a fully opened position and a closed position as recited in claim 9 (Column 10, lines 7-26).

Walrath et al. do not disclose the device having a removable nozzle and the device being used in a sprinkler assembly. The patent to Tyler teaches a sprinkler comprising a removable nozzle for easy maintenance and replacement. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

Art Unit: 3752

have modified the device of Walrath et al. '293 by attaching a removable nozzle to the outlet 30 as taught by Tyler in order to use the device of Walrath et al. in a sprinkler system and to be able to remove the nozzle when necessary.

4. Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walrath et al. '293 in view of Tyler as applied to claim 9 above, and further in view of Lemkin.

The patents to Walrath et al. and Tyler discloses the instant invention except for the indicator as recited. The patent to Lemkin teaches a sprinkler comprising an indicator for selecting spray patterns. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Walrath et al. and Tyler by providing an indicator as taught by Lemkin for indicating at least an opened or closed state of the valve. Regarding claim 13, it would have been an obvious matter of design choice to have made the sleeve valve conical, since such a modification would have involved the mere change in the shape of an object which is generally recognized as being within the level of ordinary skill in the art.

5. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hruby, Jr. in view of Cochran.

The patent to Hruby, Jr. discloses a sprinkler comprising:

- a stationary housing sprinkler assembly 91 for receiving a supply of water;
- a nozzle housing assembly 103 and 93 mounted for rotation on the top of the sprinkler housing assembly via threads 104;

- a nozzle 110 mounted in the nozzle housing assembly for distributing a flow of water away from the sprinkler; and
- a flow shut off valve 120 mounted in the nozzle housing, the valve being rotatable around an axis which extends longitudinally within the housing to throttle or shut off the flow to the nozzle (Column 5, lines 72-75 and Figure 8).

Hruby, Jr. does not disclose a rotary driven sprinkler. The patent to Cochran teaches a sprinkler comprising a rotary driven nozzle 14 for uniform spraying around the sprinkler. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Hruby, Jr. by providing a rotary driven sprinkler nozzle as taught by Cochran in order to provide uniform spraying around the sprinkler.

6. Claims 35, 36, 41, 42, 47-49, 54, 55, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walrath et al. ('293) in view of Tyler.

The patent to Walrath et al. ('293) discloses a device for receiving a supply of water and directing water therefrom, comprising:

- a housing 2 having a flow path 22, the flow path having a main portion extending along the central axis of the housing and an angled portion defining a water stream outlet; and
- a sleeve valve 18 disposed in the nozzle housing along the main portion of the flow path, the valve including an outlet area as recited, the valve being so constructed and configured that the parts thereof are substantially completely displaced as recited;

- wherein the valve further comprises an actuator 48 as recited in claim 36
(Column 10, lines 7-26).

Walrath et al. do not disclose the device having a removable nozzle and the device being used in a sprinkler assembly. The patent to Tyler teaches a sprinkler comprising a removable nozzle for easy maintenance and replacement. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Walrath et al. '293 by attaching a removable nozzle to the outlet 30 as taught by Tyler in order to use the device of Walrath et al. in a sprinkler system and to be able to remove the nozzle when necessary. Regarding claim 42, it would have been an obvious matter of design choice to have made the sleeve valve conical, since such a modification would have involved the mere change in the shape of an object which is generally recognized as being within the level of ordinary skill in the art.

7. Claims 40 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walrath et al. '293 in view of Tyler as applied to claim 9 above, and further in view of Lemkin.

The patents to Walrath et al. and Tyler discloses the instant invention except for the indicator as recited. The patent to Lemkin teaches a sprinkler comprising an indicator for selecting spray patterns. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Walrath et al. and Tyler by providing an indicator as taught by Lemkin for indicating at least an opened or closed state of the valve. Regarding claim 13, it would have been an obvious matter

of design choice to have made the sleeve valve conical, since such a modification would have involved the mere change in the shape of an object which is generally recognized as being within the level of ordinary skill in the art.

Allowable Subject Matter

8. Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's remarks have been considered, however, they are not persuasive in overcoming the prior art. The addition of claim 61 is noted.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663.

The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.

Davis Hwu